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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,229	04/02/2004	Virgil E. O'Neil	HENTE-095A	3023
7663 7590 03/03/2010 STETINA BRUNDA GARRED & BRUCKER 75 ENTERPRISE, SUITE 250 ALISO VIEJO, CA 92656				
EXAMINER				
KING, ANITA M				
ART UNIT		PAPER NUMBER		
3632				
MAIL DATE		DELIVERY MODE		
03/03/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/817,229

**Applicant(s)**

O'NEIL ET AL.

**Examiner**

Anita M. King

**Art Unit**

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17, 19-25, 35-38 and 40 is/are pending in the application.
- 4a) Of the above claim(s) 9, 13, 16, 17, 20, 22-24 and 37 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19, 21, 25, 35, 36, 38 and 40 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 11 is/are rejected.
- 7) ☒ Claim(s) 7, 10, 12, 14 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-840)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is a non-final office action for application number 10/817,229, Suspended Platform for Water Heaters, filed on April 2, 2004.

#### ***Election/Restrictions***

Claims 9, 13, 16, 17, 20, 22-24, and 37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 17, 2006.

#### ***Cancellation of Claims***

Claims 18, 26-34, and 39 have been canceled per applications request.

#### ***Response to Amendment***

After further consideration and consultation, it has been decided that the indicated allowability of claim 18 (now canceled) is withdrawn in view of the previously cited reference(s) to Scholle. Rejections based on the cited reference(s) follow.

#### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,127,252 to Splawn in view of U.S. Patent No. 6.758,010 to Wright and in further view of U.S. Patent No. 3,239,104 to Scholle. Splawn discloses a suspended platform for suspending an appliance from a plurality of support members (16), the platform comprising: a lower frame having a base (30), the base having

sufficient strength to support the appliance thereon when the lower frame is suspended from the support members (16) and the entire weight of the appliance carried only by the base; at least three connectors disposed within at least one side of the base and configured to removably fasten to a different one of the support members; wherein the at least three connectors provide a means for passing support members through a portion of the lower frame; and wherein the base is rectangular.

Splawn discloses the claimed invention except for the limitations of the base having side walls extending from the base and joined to form a fluid container and wherein the connectors comprise tubes. Wright teaches a suspended platform (10) comprising: a lower frame having a base (30) with side walls (22) extending from the base and joined to form a fluid tight container, the base having sufficient strength to support a small appliance thereon when the lower frame is suspended from support members (18); at least three connectors (86) each fastened to at least one of the side walls, each connector being configured to removably fasten a different one of the support members; wherein the at least three connectors comprise connector means (88) for passing the support members through a portion of the lower frame; wherein the side walls of the lower frame form a plurality of corners, the connectors comprise tubes located at those corners and connected to the side walls, the tubes being sized to allow passage of the support members; wherein the base is rectangular; and at least four depending support members (18) arranged in a rectangle, the support members each having a distal end fastened to a different one of the four connectors. It would have been obvious to one having ordinary skill in the art at the time the invention was made

to have modified the base in Splawn to have included the base as taught by Wright for the purpose of providing an alternative mechanically equivalent means for suspending the appliance from an overhead structure.

Splawn in view of Wright disclose the claimed invention except for the limitation of the platform being able to suspend an appliance which weighs about 500 pounds or more. It is known that the materials used in constructing the platform would allow the platform to hold a specific weight. A simple substitution for one well known equivalent for another would have been obvious to one having ordinary skill at the time the invention was made in an effort to obtain predictable results.

Splawn in view of Wright disclose the claimed invention except for the limitation of a drain fitting on one of the side wall or base. Scholle teaches a platform (10) having a sidewall (11) and a base (13) wherein a drain fitting (12) is disposed in the sidewall. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the sidewall of the platform in Wright to have included the drain fitting as taught by Scholle for the purpose of providing a means for draining fluid collected in the platform due to condensation generated from the appliance.

***Allowable Subject Matter***

Claims 7, 8, 10, 12, 14, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 19, 21, 25, 35, 36, 38, and 40 are allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Allen Shriver can be reached on (571) 272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anita M. King/  
Primary Examiner, Art Unit 3632

March 3, 2010